THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7269 OF 2006

DATED 13.09.2006

BETWEEN

T.Pushpavathi

… Petitioner

and

The Assistant Divisional Engineer (Electrical)/Operation,
APSPDCL, Gurazala, Guntur District and another.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7269 OF 2006

ORDER:

The petitioner is a resident of Dachepalli town. She was availing power supply with service connection No.3884 originally under category I (domestic). On 18.01.2002, the first respondent inspected the premises and found that the petitioner was running a T.V.Sales Showroom, a commercial venture. Therefore, he came to the conclusion that the service should be charged as category II (commercial) connection. Accordingly, he provisionally estimated the value of the energy misuse by the petitioner as Rs.21,554/- and advised the petitioner to pay a sum of Rs.10,777/- for availing continued supply. The allegation of the petitioner is that after receiving the provisional assessment order/notice, dated 05.02.2002, the petitioner submitted explanation but so far no final orders are passed. It is also the allegation of the petitioner that for all these years the petitioner is paying the current consumption charges, that without passing final assessment order, the respondents are threatening to disconnect power supply.

The matter was adjourned on 13.04.2006 to enable the learned standing counsel for A.P.Transco., to get instructions. Though the matter is listed, thereafter, on four occasions, the learned standing counsel did not obtain any instructions.

Heard the learned counsel for the petitioner and the learned standing counsel for A.P.Transco.

As rightly pointed out by the learned standing counsel, when the electricity is used for other purposes, for which the usage of electricity

was authorized, it shall be deemed as unauthorized use of electricity as explained in Explanation B(iv) below Section 126 of the Electricity Act, 2003. Petitioner's counsel does not seriously dispute that the petitioner is running T.V.Sales Showroom, in the name and style of M/s.Radha Krishna Enterprises. Therefore the provisional assessment order cannot be faulted. However, unless and until enquiry is conducted and appropriate final assessment order is passed under sub-section (3) of Section 126 of the Electricity Act, the petitioner's electricity connection cannot be disconnected, if the petitioner continues to pay monthly current consumption charges as demanded by the respondents.

Therefore, the writ petition is disposed giving liberty to the competent authority to pass final assessment orders within a period of four weeks from the date of receipt of copy of this order. Till such order is passed, on condition of the petitioner paying monthly consumption charges, power connection shall not be disconnected. No costs.

_____

(V.V.S.RAO,J)

13.09.2006
pln